
Appeal Decision

Site visit made on 27 September 2016

by David Walker MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 November 2016

Appeal Ref: APP/D0840/W/16/3155376

River View, 93 North Parade, Falmouth, Cornwall TR11 2TQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs John Baxter against the decision of Cornwall Council.
 - The application Ref PA16/02616, dated 16 March 2016, was refused by notice dated 9 June 2016.
 - The development proposed is demolition of 1920's bungalow, minor re-grading of land and erection of 3 self-contained apartments with associated car parking provision and new drainage system (revised plans to comply with dismissal notice dated 12 February 2016).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal is brought against the failure of the Council to determine the application within the prescribed period. Correspondence¹ between the Council and the appellants' agent indicates that the application was registered as valid on 8 April 2016 leading to a determination date of 3 June 2016. The decision notice provided by the Council is dated 9 June 2016, clearly beyond the determination date provided. However, as the appeal form is dated 16 June 2016 and therefore after the Council issued notice of its decision I have determined the appeal on the basis of a refusal of planning permission.
3. In Part E of the appeal form it is stated that the description of development has changed and a different wording has been entered. Having regard to the Council's letter² agreeing to such a change I have amended the description contained within the application form to incorporate this revised wording, whilst retaining the original description in the interests of accuracy.

Main Issue

4. The main issue in the appeal is the effect of the proposal on the living conditions of the occupants of No 95 North Parade in relation to scale and proximity and having regard to outlook.

¹ Letter from Cornwall Council dated 15 April 2016

² Letter from Cornwall Council dated 21 June 2016

Reasons

5. The proposal is a revised scheme following the dismissal on appeal³ of an earlier design. Having regard to the Design and Access Statement submitted, it would provide a building that would be lower overall than the previous design with a sloping roof in lieu of a parapet design. It is submitted for the appellants that the revised scheme would be in the region of 0.5-0.6 m above the roof apex of the neighbouring bungalow at No 95. Further revisions include directional oriel windows to overcome any overlooking problems.
6. Although the building would be lower it would not be reduced in length. The full height would project along the majority of the length of the rear garden of No 95 in close proximity to the common boundary. It would demonstrably reduce the available outlook from a private garden presently unencumbered by tall buildings. Such an effect I find would be overwhelming in the context of the small scale of the existing bungalows leading to harm to the existing living conditions of the occupants of No 95.
7. Paragraph 17 of the National Planning Policy Framework (the Framework) seeks to secure a good standard of amenity of all existing and future occupants of land and buildings. It is an expression of Government policy to which I afford significant weight, and against which I find the magnitude of harm to be unacceptable. It follows that there would also be conflict with the aims of paragraph 56 of the Framework for the design of the built environment to contribute positively to making places better for people.
8. While other properties in Falmouth are in close proximity and some overbearing effects are a result of historical development, these are pre-existing conditions. New small scale residential development in Falmouth is required to respect the local area in terms of scale and height under criterion (iv) of saved policy 6CB of the Carrick District Wide Local Plan 1998. The harm arising from the scale and height of the proposal therefore brings it into conflict with the development plan. On this basis the proposal cannot amount to a sustainable development for the purposes of paragraph 14 of the Framework.
9. In reaching my findings I am mindful that the illustrative model I observed at my site inspection would suggest that the proposal may not result in a loss of direct sunlight for the neighbours. However, neither this nor the stepped down arrangement of the three apartments and revised roof form would diminish the loss of outlook to an acceptable degree.
10. I also acknowledge the Council has raised no objections to the effect of the revised scheme on the character and appearance of the area, but this does not outweigh the significant harm I have identified. On the main issue therefore, I conclude that the scale and proximity of the proposal to No 95 North Parade would result in a harmful effect on living conditions as a result of diminished outlook.
11. Interested parties have raised additional matters in connection with noise and disturbance during construction, and access and parking. I am satisfied that sufficient controls exist within other legislation to prevent construction activities causing unacceptable disturbance. I also note there was no objection from the local highways authority at the time of the application and have no reasons to

³ Appeal Ref APP/D0840/W15/3136169

disagree with that assessment. These matters do not accordingly weigh heavily against the proposal.

Conclusion

12. For the reasons given above, and with regard to the development plan read as a whole, I conclude that the appeal should be dismissed.

David Walker

INSPECTOR